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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE DISTRICT OF OREGON

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10 HERB TOMPKINS,  
11 Plaintiff,  
12 vs.

O R D E R  
Civ. No. 08-6009-AA

13 INTERSTATE DISTRIBUTOR CO., a  
14 foreign corporation, GARRETT BURKHART,  
15 JR., SCHNEIDER NATIONAL CARRIERS,  
16 INC., a foreign corporation, and  
17 WESTLEY DANSIE,

Defendants.

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18 AIKEN, Judge:

19 Plaintiff filed his complaint on January 8, 2008, alleging  
20 a personal injury action against defendants regarding a motor  
21 vehicle accident. This court has jurisdiction based on diversity  
22 of citizenship pursuant to 28 U.S.C. § 1332. Plaintiff was  
23 originally represented by counsel, however, counsel's motion to  
24 withdraw was granted by this court in July 2008. At that time  
25 the court stayed the action allowing plaintiff three months, or  
26 until October 2, 2008, to obtain other counsel. On December 11,  
27 2008, the court filed an Order to Show Cause due to lack of  
28 prosecution. On December 30, 2008, plaintiff, appearing pro se,  
filed a motion to extend all pretrial dates. The court granted

1 that motion and allowed plaintiff until January 30, 2009, to  
2 obtain counsel or continue pro se. Meanwhile, on January 8,  
3 2009, defendants filed motions for summary judgment pursuant to  
4 Fed. R. Civ. P. 56. Plaintiff failed to file any response or  
5 opposition to the motions. On February 9, 2009, the court filed  
6 an Order Advising Plaintiff of Federal Summary Judgment Standards  
7 (doc. 32). That Order was returned to the court several times as  
8 undeliverable and the court has had no further communication with  
9 plaintiff, including any response to the pending motions.

10 Therefore, this case is dismissed due to lack of  
11 prosecution.

12 CONCLUSION

13 Defendants' motions for summary judgment (doc. 24 and 28)  
14 are denied as moot. This case is dismissed due to lack of  
15 prosecution.

16 IT IS SO ORDERED.

17 Dated this 17 day of April 2009.

21 \_\_\_\_\_ /s/ Ann Aiken  
22 Ann Aiken  
23 United States District Judge  
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